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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

ISABEL OCHOA,

Plaintiff,

-against-

**NEW YORK CITY DEPARTMENT OF
EDUCATION and ANGEL ORTEGA,
Principal MS 391,**

Defendants.

1:20-CV-9014 (ALC)

ORDER OF SERVICE

ANDREW L. CARTER, JR., United States District Judge:

Plaintiff, who appears *pro se*, asserts claims against the New York City Department of Education (DOE) and Angel Ortega, the principal of M.S. 391, pursuant to Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 1981, the Age Discrimination in Employment Act of 1967, and the New York State and City Human Rights Laws. By order dated November 30, 2020, the court granted Plaintiff's request to proceed without prepayment of fees, that is, *in forma pauperis* ("IFP").

As Plaintiff has been granted permission to proceed IFP, she is entitled to rely on the Court and the U.S. Marshals Service to effect service. *See Walker v. Schult*, 717 F.3d 119, 123 n.6 (2d Cir. 2013); *see also* 28 U.S.C. § 1915(d) ("The officers of the court shall issue and serve all process . . . in [IFP] cases."); Fed. R. Civ. P. 4(c)(3) (the Court must order the Marshals Service to serve if the plaintiff is authorized to proceed IFP). Although Rule 4(m) of the Federal Rules of Civil Procedure generally requires that a summons and the complaint be served within 90 days of the date the complaint is filed, Plaintiff is proceeding IFP and could not have served summonses and the complaint on the DOE and Ortega until the Court reviewed the complaint and ordered that summonses be issued for those defendants. The Court therefore extends the time to serve the

DOE and Ortega until 90 days after the date that summonses are issued for those defendants. If the complaint is not served on those defendants within that time, Plaintiff should request an extension of time for service. *See Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012) (holding that it is the plaintiff's responsibility to request an extension of time for service); *see also Murray v. Pataki*, 378 F. App'x 50, 52 (2d Cir. 2010) (summary order) ("As long as the [plaintiff proceeding IFP] provides the information necessary to identify the defendant, the Marshals' failure to effect service automatically constitutes 'good cause' for an extension of time within the meaning of Rule 4(m).").

To allow Plaintiff to effect service of the complaint on the DOE and Ortega, the Clerk of Court is instructed to fill out U.S. Marshals Service Process Receipt and Return forms ("USM-285 forms") for those defendants. The Clerk of Court is further instructed to issue summonses for the DOE and Ortega, and deliver to the Marshals Service all of the paperwork necessary for the Marshals Service to effect service of the complaint on those defendants. Plaintiff must notify the Court in writing if her address changes, and the Court may dismiss this action if Plaintiff fails to do so.

CONCLUSION

The Court directs the Clerk of Court to mail a copy of this order to Plaintiff, together with an information package.

The Court also directs the Clerk of Court to (1) issue summonses for the New York City Department of Education and Angel Ortega, (2) complete USM-285 forms with the service addresses for those defendants, and (3) deliver all documents necessary to effect service on those defendants to the U.S. Marshals Service.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore IFP status is denied for the purpose of an appeal. *Cf.*

Coppedge v. United States, 369 U.S. 438, 444-45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

SO ORDERED.

Dated: December 10, 2020
New York, New York

A handwritten signature in black ink, reading "Andrew L. Carter, Jr." in a cursive style.

ANDREW L. CARTER, JR.
United States District Judge

DEFENDANTS AND SERVICE ADDRESSES

1. New York City Department of Education
Tweed Courthouse
52 Chambers Street
New York, New York 10007
2. Angel Ortega, Principal, MS 391
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